

Shortly thereafter, Babbitt reached McCain by phone in Atlanta. McCain recalls that the substance of the call to McCain was that of an abject apology, wherein Babbitt stated, “John, I misled you and owe you an apology.”<sup>859</sup> This is not an admission by Babbitt that he intentionally misled McCain. However, in neither McCain’s nor Babbitt’s account of the conversation does Babbitt tell McCain that he did not intend to mislead him. At a minimum, the apology to McCain acknowledges that the substance of the letter was misleading, and that McCain could reasonably feel that he had been deceived. In this context, Babbitt’s failure to assert that any deception had been unintentional is telling.

#### **4) Babbitt Had a Motive to Mislead McCain**

In addition to the facts set forth above, Babbitt had a motive for misleading Sen. McCain in August 1996: to short-circuit any further investigation into what he has admitted was the embarrassing fact of his conversation with Eckstein. Moreover, Babbitt arguably had a motive to prevent a congressional inquiry into White House political activity on the eve of the 1996 general election. It was only when the inquiry came back to haunt Babbitt in connection with the Senate investigation a year later that Babbitt decided that he needed to be more forthcoming with the Senate Committee than he had been with McCain. And Babbitt continued to have a strong motive to dissemble about the letter to McCain, even when appearing before the Senate Committee. Babbitt acknowledged that he knew that if the Committee concluded that he lied to

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<sup>859</sup>OIC McCain Int. at 4.